IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JAIPUR BENCH JAIPUR

O R D E R

S.B. Civil Second Appeal No.405 Of 2002.

Giriraj Prasad Vs. Lalit Kumar & Others.

Date Of Order ::: 11.12.2006.

Hon'ble Mr. Narendra Kumar Jain J.

Mr. Krishna Verma, Counsel for defendant-appellant
Mr. B.L. Mandhana, Counsel for plaintiff-respondent

By the Court :

Heard learned counsel for both the parties.

The plaintiff-respondents filed a suit for eviction in respect of the rented property against the defendant-appellant in the Lower Court on the ground of personal bona-fide necessity, default in making the payment of rent, nuisance and material alteration. However, the learned Lower Court decreed the suit of the plaintiff for eviction on the ground of personal bona-fide necessity. So far as the default in making the payment of rent is concerned, the learned Lower Court although recorded a finding that the defendant

has committed a default in making the payment of rent, but the decree of eviction was not passed and the benefit of Sub-section 6 of Section 13 of the Rajasthan Premises (Control of Rent & Eviction) Act, 1950 was given.

The finding of the learned Lower Court about the personal bona-fide necessity has been affirmed by the First Appellate Court also.

I have heard the learned counsel for the parties and after considering their submissions in the light of the findings of both the Court below, I find that the question of personal bona-fide necessity, in the facts and circumstances of the present case, is purely a question of facts and there is a concurrent finding of fact by both the Courts below, which cannot be interfered with by this Court in second appeal under Section 100 of the C.P.C.

No substantial question of law is involved in this second appeal and the same is accordingly dismissed at the admission stage itself with no order as to costs.

(Narendra Kumar Jain) J.